Docket No.: 04577/000N072-US0

Application No. 10/624,944 Amendment dated December 10, 2007

Response After Final Office Action of June 8, 2007

REMARKS

I. Claims Status

Claims 1-7 and 9-12 are pending and stand rejected. Reconsideration of the application is

respectfully requested in view of the Remarks below.

II. Rejections under 35 U.S.C.§ 103(a)

The Examiner has maintained his rejection of claims 1-7 and 9-12 as obvious over Harada

et al. (U.S. Published Application No. 2002/0090335) in view of Guo et al. (U.S. Patent No.

6,827,916) and Vita et al. (U.S. Patent No. 2,985,506); claim 2 as obvious over Harada in view of

Guo et al., Vita et al., and Kawamoto et al. (U.S. Published Application No. 2003/0022784); and

claim 5 in view of Harada et al. in view of Guo et al., Vita et al. and Kerchner et al. (U.S. Patent

No. 6,129,903).

The Examiner contends that Harada teaches that the hydroxide ion is added to reaction

(paragraphs 68 and 69) in excess (paragraph 69) and, from this teaching, "it would be obvious that

the pH is maintained at 14 and that because an excess of hydroxides is present, for all intents and

purposes, the amount of "OH is constant."

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In response to Applicants' previous arguments, the Examiner contends that Harada teaches

the use of an excess of base, which is substantially similar to maintaining a constant "OH

concentration, reasoning that the concentration prior to and after the reaction with the titanium

would be substantially similar due to the excess; and, therefore, the "OH concentration would be

substantially maintained. Applicants respectfully traverse.

The Examiner has stated that Harada uses an alkali solution in an amount of 1.5 moles

based on one mole of titanium used; and from this teaching, it would be obvious that the pH is

maintained at 14, and that because an excess of hydroxides is present, then, for all intents and

purposes, the amount of "OH is a constant. It is respectfully submitted that this interpretation is

incorrect. The Examiner is arguing that the pH of a solution containing 1.5 equivalents relative to

the titanium present is 14, or substantially similar in pH or OH concentration when 0.5

equivalents are present (i.e., what is left after the reaction); however, Applicants disagree with the

Examiner's argument.

If an appropriate volume (in this example, a volume containing 1.5 equivalents relative to

the titanium used) of a 0.01 molar NaOH solution (pH=12) is used; then, after the reaction, a 0.5

molar excess would remain in an indeterminate larger volume. The pH of the resulting solution,

while still basic, would necessarily be substantially lower than the pH of the original. That is to

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say, after the reaction, the "OH concentration would be substantially lower, since a full equivalent

would have been consumed during the reaction. The concentration of "OH is steadily decreasing

during the course of the reaction, from 1.5 equivalents to 0.5 equivalents. In contrast, claim 1

requires that the "OH concentration be maintained constant during the reaction. Harada's

reaction mixture, however, results in a substantial drop (1.5 equivalents as compared to 0.5

equivalents) in OH present during the course of the reaction. This difference cannot be viewed

as insubstantial, nor can it be considered constant.

There is no suggestion or motivation contained in Harada to maintain the OH levels as a

constant during the course of the reaction. Quite the contrary, with a substantial drop in OH

levels during the course of the reaction as described in Harada, Applicants further assert that

Harada teaches away from maintaining the "OH levels as a constant during the course of the

reaction.

Additionally, Applicants assert that the burden of showing that the "OH concentration in

Harada is "substantially maintained" falls upon the Examiner. The Examiner is unclear as to

what "substantially maintained" means, in the context of Harada. Harada discloses a drop of 1.5

equivalents to 0.5 equivalents in the concentration of the OH present which, as previously stated,

cannot be considered insubstantial or constant.

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For the aforementioned reasons, the instant claim 1 is non-obvious in view of Harada alone

or in combination with Guo (U.S. Patent No. 6,827,916) and/or Vita (U.S. Patent No. 2,985,506)

and/or Kawamoto (U.S. Published Application No. 2003/0022784) and/or Kerchner (U.S. Patent

No. 6,129,903), since none of the aforementioned references teaches, suggests or provides any

motivation to maintain a constant "OH level during the course of the reaction as required by

claim 1.

Applicants further maintain and reiterate their previous arguments presented in the

Response, filed March 28, 2007, to the Office Action dated November 29, 2006.

Applicants respectfully request reconsideration and withdrawal of all obviousness

rejections.

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CONCLUSION

In view of the foregoing amendments and remarks, applicant believes the pending

application is in condition for allowance, and earnestly solicits same.

If fees in addition to those transmitted herewith should be required for the filing of this

response, the Commissioner is hereby authorized and requested to charge any such fees to Darby

and Darby Deposit Account No. 04-0100.

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